

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.5027 OF 1983

For Approval and Signature

The Hon'ble Mr. Justice S.K. KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

SHRI NAVNITBHAI POPATLAL SHAH
VERSUS
GUJ. STATE CO-OP. MKTG. FEDERATION LTD.

Appearance:

None present for Respondent.

Coram: S.K. Keshote,J
Date of decision:3.3.97

C.A.V. JUDGMENT

Perused the Special Civil Application. The

petitioner, a class-I officer of the respondent-Cooperative Socceity, filed this Special Civil Application and prayer has been made therein for directions to the respondent-Society to consider petitioner's case for promotion immediately and promote him to the post of Assistant Manager.

2. This writ petition has been admitted by this Court after notice to respondent, on 15.11.83. Interim relief, in terms of para 11(c) has been granted. Para 11(c) reads as under:

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That during the pendency of admission and final hearing of this petition, the respondent - Society may be restrained by way of interim order not to promote any of the officer in Grade I to the post of Assistant Manager.

3. The Society has contested the Special Civil Application by filing a reply. Preliminary objection has been raised in reply that the Society is not a 'State' within the meaning of Article 12 of the Constitution of India. On merits, the Society has come up with the case that from the post of Officer, Gr.I, the next promotional post is Assistant Manager. In the categories of Assistant Manager, there are other posts, namely, Assistant Managers (Administration), (Accounts), (Foodgrains), (Vigilance), (Oil Engine Department. Agricultural Machinery Division), (Seeds), (Fertilizers), etc. In the Special Civil Application, the petitioner has come up with the case that the officers junior to him, namely, Shri S.M. Patel, G.M. Patel & B.P. Patel, have been given promotion to the post of Assistant Manager with effect from 1st October 1981, 14th September 1981 and 1st October 1981, respectively. The petitioner contended, in Special Civil Application, that these promotions have been given without any basis, and without following any rule or norms for giving promotion from one post to other. The service record of the petitioner was clean and as such, he should have been given promotion. These promotions of the aforesaid three persons were stated to be violative of Article 14 and 16 of the Constitution of India.

4. The petitioner has not impleaded any of the aforesaid persons as a party to this petition and as such, the grievance of the petitioner against promotions of these persons is untenable and cannot be allowed to stand. Otherwise also, the respondent has come up with the case in reply, that while giving promotion to the

aforesaid three officers, the Selection Committee had in fact considered the suitability of the petitioner, but he was not found suitable for promotion. It has further been stated in reply by the society that seniority is not the only criteria for promotion. The petitioner's record is not clean. So in view of the reply made by the respondent-Society, it cannot be said that it has acted arbitrarily or in violation of provisions of Articles 14 and 16 of the Constitution of India while making promotion to the post of Assistant Manager. The petitioner has only a right of consideration for promotion and which right has not been denied. It is a case where the petitioner got a blanket stay order and for all these years no promotion to the post of Assistant Manager could have been made. There is yet another reason for which, this writ petition deserves to be dismissed. It is a matter of year 1983 and there may be possibility that the petitioner would have been promoted in subsequent years on the post of Assistant Manager, but what ultimately transpired for all these 13 years after filing of this Special Civil Application has not been brought on record by the petitioner. It is the duty of the litigant to bring on record all subsequent events and developments which have taken place after filing of Special Civil Application and which have relevance to the controversy raised in the Special Civil Application. The very fact that the petitioner's counsel is not present goes to suggest that the petitioner would have been given promotion and no grievance whatsoever now survives.

5. Taking into consideration the totality of the facts of the case, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, granted by this Court, stands vacated. No order as to costs.

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(sunil)